IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1674 OF 2005

Ganpat Parvati Kashved ...Petitioner

V/s.

City and Industrial Development Corporation
of Maharashtra Limited & Ors. ...
Respondents.

Mr. A.C. Singh instructed by Mr. D.R. Shah for the Petitioner

Mr. G.S. Hegde for Respondent No. 1

Mrs. M.P. Thakur, Assistant Government Pleader,
for Respondent No. 2.

CORAM: KSHITIJ R. VYAS, C.J., &
DR. D.Y. CHANDRACHUD,J.
DATE: APRIL 25, 2006.

P.C.:-

1. It is prayed in this petition that the first respondent be directed to regularise and allot on outright purchase basis Stall No. 12, Sector 1, Market Vashi, Navi Mumbai, to the petitioner. It is also prayed that the first respondent be restrained from in any manner cancelling the proposed allotment of the said stall to the petitioner or allotting the same to the third respondent on ownership or any other basis whatsoever.

2. It is admitted that under a Leave and Licence Agreement dated 20th April, 1979, the first respondent allotted to the petitioner a stall bearing No. 12, Vashi Vegetable Market, Navi Mumbai. It is further admitted that in March, 1984, the first respondent offered to allot the said stall on outright purchase basis on payment of total consideration of Rs.12,408/-, out of which Rs.6,204/- was then payable without delay. It appears that the petitioner paid a sum of Rs.4,000/- to the first respondent on 24th January, 1985 and requested for time for payment of the balance consideration. However, no payment was made thereafter.

3. It appears that some time in 1985, the third respondent occupied the stall. The petitioner took up the matter with the first respondent who sent notices to the third respondent to vacate the stall. In the meantime, the petitioner has taken out this petition.

4. According to the learned counsel appearing for respondent No.1, appropriate steps are being taken for recovering possession of the stall from the third respondent.

5. In the aforesaid background, it is prayed by the petitioner to allot on outright purchase basis the stall to him. This Court cannot grant the prayer as such. Granting such prayer will amount to reviving contract, which is not permissible while hearing petition under Article 226 of the Constitution. As stated above, in March, 1984, the first respondent offered to allot the said stall to the petitioner on outright purchase basis on payment of total consideration of Rs.12,408/-, out of which Rs.6,204/- was then payable without delay. The petitioner paid a sum of Rs.4,000/- to the first respondent on 24th January, 1985 and requested for time for payment of the balance consideration. However, no further payment was made.

6. It is stated by the learned counsel appearing for respondent No. 1 that the petitioner cannot be put into possession of the stall, in view of the fact that respondent No. 3 is in occupation thereof.

7. In the facts and circumstances, we dispose of this petition, reserving liberty to the petitioner to make a representation to respondent No. 2 to allot the stall to him. As and when the representation is made, the same may be considered, in

accordance with law, as expeditiously as possible. The petition is accordingly disposed of.

CHIEF JUSTICE

DR.D.Y.CHANDRACHUD,J.